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DOCKET NO. P04658 (NATI15-04658)
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Technology Center 2600

In re application of : CHRISTOPHER M. HERRING, ET AL.
U.S. Serial No. : 09/477,876
Filed : January 5, 2000
For : SYSTEM AND METHOD FOR CONCURRENT WIRELESS
VOICE AND DATA COMMUNICATIONS
Group No. : 2663
Examiner : S.A. Waite

MAIL STOP NON-FEE-AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction Requirement mailed April 7, 2003, Applicant provisionally elects the claims of group I (claims 1-6) WITH TRAVERSE.

The Restriction Requirement asserts that the claims of Group I (claims 1-6) and the claims of Group II (claims 7-21) are directed to inventions that are unrelated in that "it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects." Specifically, the Office Action asserts that:

In the instant case the different inventions vary in that group II is only useable in systems comprising plural frequency, time division multiple access, time division duplex, channels; but group I must contain a tethered transceiver that combines and

transmits voice and data while the mobile unit receives and separates the voice and data.

Paper No. 6, page 2.

Restriction is only proper where the claims are independent or distinct. MPEP § 806. In passing on questions of restriction, the claimed subject matter must be compared in order to determine distinctness and independence. MPEP § 806.01. Pending independent claim 1 of Group I and claim 7 of Group II recite substantially corresponding limitations:

1. A system for concurrent wireless voice and data communications comprising:

(a) a first transceiving unit tethered to a voice network and to a data network;

(b) a second, mobile transceiving unit;

(c) the first transceiving unit combines and transmits to the second transceiving unit, voice and data information from the voice and data network, respectively, and

receives and separates voice and data information from the second, mobile transceiving unit and routes to the voice network and the data network, respectively; and

7. A method for concurrent wireless voice and data communications between first and second transceiving units,

the first transceiving unit tethered to a voice network and to a data network and

the second transceiving unit being mobile, comprising the steps of:

(a) providing plural frequency, time-division-multiple-access, time-division-duplex, channels;

(b) combining and transmitting both voice and data information on the plural channels; and,

(c) receiving and separating the voice and data information.

(d) the second, mobile transceiving unit combines and transmits to the first transceiving unit, voice and data information and receives and separates voice and data information from the first transceiving unit.

These claims differ primarily in that: (a) claim 1 recites that both the tethered and mobile transceiving units combine and transmit and receive and separate voice and data information, while claim 7 does not explicitly specify whether one or both of the tethered and mobile transceiving units combine and transmit and receive and separate voice and data information; and (b) claim 7 recites that plural frequency, time-division-multiple-access, time-division-duplex channels are employed, while claim 1 contains no limitation regarding the transmission medium.

However, claims 1 and 7, while differing in scope, are NOT mutually exclusive. As illustrated by the comparison above, the claims are overlapping in scope. The specification describes an embodiment utilizing BOTH of the limitations distinguishing the claims; that is, the exemplary embodiment uses a multiple carrier, time-division-multiple-access, time-division-duplex system (Specification, Figures 7 and 8, page 13, line 6 through page 15, line 22) AND includes both a tethered transceiving unit (base station 102) and a mobile transceiving unit (PAD 100) that both combine voice and data information for transmission and separate received voice and data information (Specification, Figures 2-4 and 6, page 8, line 4 through page 10, line 23, page 11, line 17 through page 13, line 5 and page 15, line 24 through page 17, line 2). Accordingly, the claimed inventions are disclosed as being capable of use together. Moreover, by necessity, the claimed

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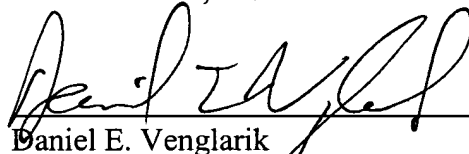
inventions have similar modes of operation, functions and effects. Accordingly, the restriction requirement has no basis in the claims and/or application, and is therefore arbitrary and capricious.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to National Semiconductor Corporation Deposit Account No. 140448.

Respectfully submitted,

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL

The undersigned hereby certifies that the following documents:

1. Response to Restriction Requirement; and
2. Postcard receipt;

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 7, 2003.

Date: 5/7/03

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